



## Fiscal Note

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<b>Drafting Number:</b>	LLS 24-0384	<b>Date:</b>	January 25, 2024
<b>Prime Sponsors:</b>	Rep. Frizzell; Marshall Sen. Hansen; Kolker	<b>Bill Status:</b>	House Finance
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**Bill Topic:** **ISSUANCE OF TREASURER'S DEEDS**

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<b>Summary of</b>	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<b>Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill changes requirements and processes for issuing treasurer's deeds. It minimally increases state workload, and increases local government revenue and expenditures.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The fiscal note reflects the introduced bill, which was recommended by the Legislative Oversight Committee Concerning Tax Policy.

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### Summary of Legislation

The bill changes requirements and processes for issuing treasurer's deeds.

Under current law, a county treasurer must issue a treasurer's deed to the owner of a tax lien if the owner applies for the deed and the lien has been held for at least three years and has not been redeemed. The bill removes this requirement, and also restricts the ability of counties to dispose of certificates of sale. It establishes a process whereby a person who has held an unredeemed tax lien for at least three years may apply for a public auction of the certificate of purchase for the property, rather than being issued a treasurer's deed immediately. If the certificate of property is sold at the auction, then the treasurer may issue a treasurer's deed to the new owner of the certificate of purchase, thereby transferring ownership of the property.

If the amount bid for the certification of purchase exceeds the amount of the tax lien, then the excess will be used to pay off any other liens on the property, plus any fees and costs. Any additional funds from the bid will be paid to the previous owner of the property.

The bill also creates a new class 2 misdemeanor offense of inducing or attempting to induce another person to enter into an agreement to pay compensation to recover or assist in recovering an amount due to the property owner from the treasurer following an overbid on an auctioned property lien, which is unenforceable and prohibited under the bill.

## **Background**

**Colorado current law.** If a taxpayer fails to pay their property taxes on time, a county may issue a tax lien on the property. A tax lien ensures that the county gets first claim over any other creditors vying for the property, and makes it difficult for the owner to sell or refinance the property until the taxes are paid and the lien is lifted.

The county may then auction off the tax lien. The purchaser of the tax lien is responsible for paying the unpaid taxes and other associated costs upon purchase, which allows the county to recover the unpaid taxes more quickly than waiting for the taxpayer to repay the delinquent taxes. The purchaser of the tax lien then gets repaid as the owner of the property repays the delinquent taxes, with interest. The owner of the property has three years to “redeem” the tax lien by repaying the taxes owed, plus interest.

If the tax lien is not redeemed within three years, the owner of the tax lien may apply for a treasurer’s deed, which the treasurer is required to grant if all criteria are fulfilled. The treasurer’s deed transfers ownership of the property, now free of all tax liens, but subject to some restrictions. The former property owner is not guaranteed to receive any payment if the value of the property that was seized exceeds the amount of taxes owed.

***Tyler v. Hennepin County Supreme Court case.*** In May 2023, the Supreme Court ruled that property owners are entitled to any remaining equity from the seizure of their property if the value of the property exceeds the amount of taxes owed.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. Using Judicial Department data, the following section outlines crimes that are comparable to the offenses in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

**Prior conviction data and assumptions.** The bill creates a new misdemeanor offense and changes the factual basis for an existing crime, as described below.

- **Inducing a person into a prohibited agreement.** The bill creates the new offense of inducing or attempting to induce another person to enter into an agreement to pay compensation to recover or assist in recovering an amount due to the property owner from the treasurer, a class 2 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of inducing a person to enter into a prohibited agreement related to recovery of unclaimed property as a comparable crime. From FY 2020-21 to FY 2022-23, zero offenders have been sentenced and convicted for this existing offense.
- **Failure of county treasurer to perform duties.** This bill creates a new factual basis for the existing offense of failure of county treasurers to perform duties by modifying the duties of the county treasurer regarding issuing treasurer's deeds and requiring treasurers to host auctions. From FY 2020-21 to FY 2022-23, zero offenders have been sentenced and convicted for this offense.

**Assumptions.** Based on the comparable crime data above, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for the offenses affected by the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## State Expenditures

The bill may also have an indeterminate workload impact on the Department of Law depending on whether the bill impacts potential litigation involving the state. No appropriation is required.

## Local Governments

The bill will increase responsibilities of county treasurers by requiring them to hold auctions on the behalf of owners of tax liens. County treasurers are also required to review applications, provide notices to property owners and others, arrange auctions, issue requests for and certificates of redemption, and perform other additional duties. The bill also allows treasurers to charge fees to cover the costs associated with auctions and other responsibilities that the bill creates in law, thereby increasing revenue to county treasurer's offices and offsetting costs incurred from these new duties.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State and Local Government Contacts**

Counties	County Clerks	County Treasurers
Judicial	Law	Local Affairs
Municipalities	Revenue	

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes).